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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,290	08/01/2003	Aman Gupta	GEMS8081.168	3334

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EXAMINER

TIMBLIN, ROBERT M

ART UNIT	PAPER NUMBER
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2167

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,290

Applicant(s)

GUPTA ET AL.

Examiner

Robert M. Timblin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/3/2003</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action corresponds to application 10/633,290 filed 8/1/2003.

Claims 1-21 have been canceled and new claims 22-37 are pending.

Priority

If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 120, a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

If the instant application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not

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extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 140, 142, and 144 of figure 7. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to because the specification is missing the following components. See below.

Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.

Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed

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invention. This item may also be titled "Technical Field." See MPEP § 608.01(c).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 22-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

MPEP 2106 IV.B.2.(b)

A claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under 35 U.S.C. 101. *Schrader*, 22 F.3d at 296, 30 USPQ2d at 1460. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application.

Claims 33-37, in view of the above-cited MPEP sections, are non-statutory because they purport to computer signals, which do not belong to any of the 4 enumerated statutory classes of invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22, 24, 26-31, 33-35, and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by **Kennedy et al.** ('Kennedy' hereinafter (US 6,963,847 B1).

With respect to claim 22, **Kennedy** teaches an automated method for visually displaying product production information and notifications in real-time comprising:

automatically querying a database for production data for each order scheduled for a production that includes '**a product category of each order**' as grouping of products (col. 12, lines 45-50) '**a promised shipping date for each order**' as a promise by date (col. 12 lines 34-35), '**a projected shipping date for each order** as a request date (col. 12 lines 42-44), and an '**expected sales revenue for each order**' as line-item price and resulting quotation (col. 12, lines 50-53) by a seller in real time.

'for each order, automatically comparing the promised shipping date and the projected shipping date' as quotation not received from client by the date and time specified (col. 12, lines 4-23).

'for each order, automatically generating a proactive alert if the projected shipping date is later than the promised shipping date' as a failure notification sent (col. 12 lines 10-18).

'for each category, automatically determining a shipment quality metric' as calculating delivery coordination according to individual ATP requests (col. 25, lines 25-39).

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'automatically displaying the proactive alert for each order' as shipment notifications proactively identified and sent to Local Fulfillment managers (col. 33, lines 33-40).

'the shipment quality metric in a tabular format on a user viewable medium' as delivery coordination may be accomplished using a table-driven technique that links products, locations, and standard lead times (col. 25, lines 20-38).

With respect to claims 24, 27 and 37, **Kennedy** teaches **'a plurality of display forms, wherein each display form depends on a number of days before the product is available'** (col. 2, lines 28-40).

With respect to claim 26, the limitations of this claim are similar to those set forth in claim 22 above in view of **Kennedy**. Therefore, claim 26 is rejected for the same reasons.

Further, **Kennedy** teaches **'a sum of products in productions and a sum of products in production for each product category'** as Individual line-item quotes can be computed, then combined (col. 17, lines 15-32).

'sum of projected revenue for each product in production' as a total price (col. 20, lines 60-65).

With respect to claim 28, **Kennedy** teaches to **'display a user-defined message for each order within the category'** as an ATP request created at client (col. 10, lines 15-26).

With respect to claim 29, **Kennedy** teaches **'a first message is displayed if the number of days before the product is available is greater than a user-defined number and a second message is displayed if the number of days before the product is available is less than a user-defined number'** as the user may specify the desired due dates (col. 10, lines 40-50). Furthermore, the fulfillment server uses the ship on-time parameter to process early or late component promises (col. 11, lines 38-58).

With respect to claim 30, **Kennedy** teaches **'the shipment quality metric is process to provide a statistical measure of process capability'** (col. 25, lines 17-31).

With respect to claim 31, **Kennedy** teaches **'the shipment quality metrics are regularly re-processed'** (col. 32, lines 25-35).

With respect to claim 33, the limitations of this claim are similar to those set forth in claims 22, and 26 above in view of **Kennedy**. Therefore, claim 33 is rejected for the same reasons.

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Further, **Kennedy** teaches 'calculate a number of days between a current date and the projected shipping date to create a number of days before the product is available' as an offered date (col. 21, lines 25-30).

With respect to claims 34 and 36, the limitation of this claim has been addressed in claims 22 and 26, and therefore rejected for the same reason. Further, **Kennedy** teaches 'one or more processors' (col. 5, lines 59-62).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23, 25, 32, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kennedy** as applied to claims 22, 24, 26-31, 33-35, and 37 above and further in view of **Tucker et al.** ('Tucker' hereinafter) (US 5,452,218).

With respect to claims 23 and 32, the **Kennedy** fails to teach the shipment quality

metric formula:

$$Z_{LT} = \min \left[\frac{USL - \mu}{\sigma}, \frac{\mu - LSL}{\sigma} \right]$$

Tucker, however, teaches the above formula (col. 3 lines 15-29 and fig 7).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teaching of **Tucker** would have provided Kennedy's system with producing a measure of quality (Tucker, abstract).

With respect to claim 25, Kennedy fails to teach the claimed determining an acceptance range and displaying a percentage of items the shipment quality metric is outside the acceptance range.

Tucker, however, teaches **'determining an acceptance range'** as a mean or DPMO (col. 3, lines 30 and fig. 7)

'displaying a percentage of items the shipment quality metric is outside the acceptance range' as a standard deviation (col. 3, lines 30 and fig. 7).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teaching of **Tucker** would have provided Kennedy's system with producing a measure of quality (Tucker, abstract).

With respect to claim 35, Kennedy fails to teach the claimed quality metric is a statistical value calculated and displayed is a projected defect in parts per million.

Tucker, however, teaches the claimed **'quality metric is a statistical value calculated and displayed is a projected defect in parts per million'** as DPMO (col. 3 lines 16-20, col. 5 lines 20-25, and figures 6a-7).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teaching of **Tucker** would have provided Kennedy's system with producing a measure of quality (Tucker, abstract).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6,188,989 B1 issued to **Kennedy** on 2/13/2001. The subject matter disclosed therein is pertinent to that of claims 22-37 (i.e. managing ATP orders).

US 2002/0042755 A1 filed by **Kumar et al.** on 10/4/2001. The subject matter disclosed therein is pertinent to that of claims 22-37 (i.e. ATP requests).

US 6,654,726 Issued to **Hanzek** on 11/25/2003. The subject matter disclosed therein is pertinent to that of claims 22,26,33 (i.e. product availability and tracking).

US 6,353,767 Issued to **Wakeman et al.** on 4/5/2002. The subject matter disclosed therein is pertinent to that of claims 23, 25, and 36(i.e. z-scoring and confidence range).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Timblin whose telephone number is 571-272-5627. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jean R. Homere can be reached on 571-272-3780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leslie Wong
Primary Examiner

Robert M. Timblin
Robert M. Timblin
Patent Examiner AU 2167

RMT
2/9/2006